

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NANCY COOK,

Plaintiff,

v.

ORDER
02-CV-065A

HATCH ASSOCIATES,

Defendant.

On January 12, 2006, the defendant, Hatch Associates, filed a motion objecting to a jury determination as to lost wages arising under the plaintiff's Title VII claim. The defendant correctly points out that lost wages—in the form of back pay or front pay—is an equitable remedy to which a Title VII plaintiff is not entitled to a jury determination. See Broadnax v. City of New Haven, 415 F.3d 265, 271 (2d Cir. 2005); Robinson v. Metro-North Commuter R.R., 267 F.3d 145, 157 (2d Cir. 2001).

Accordingly, the defendant's motion to preclude a jury determination of the amount of plaintiff's lost wages is granted. However, the Court retains authority to submit the issue of lost wages to the jury for an advisory verdict if it deems such action appropriate. See Fed. R. Civ. P. 39(c) ("In all actions not triable of right by a jury the court upon motion or of its own initiative may try any issue with an advisory jury . . ."); see also Hine v. Mineta, 238 F. Supp. 2d 497 (E.D.N.Y. 2003).

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 11, 2006